

Ser. No.: 10/686,405

Docket No.: 20032055

REMARKS

The Applicant appreciates the courteous and complete examination of the application by the Examiner. In view of the foregoing amendments and the following remarks, a reconsideration of the instant application is respectfully requested.

The Examiner rejects claims 1, 2 and 8-12 under 35 U.S.C. 102(b) as being anticipated by Bersten. Claims 1, 2 and 8-12 have been cancelled and replaced with new claims. The newly added claim 1 incorporates the allowable claim language from canceled claim 17, thereby overcoming the 35 U.S.C. 102(b) rejection.

The Examiner rejects claims 3 and 4 under 35 U.S.C. 103(a) as being unpatentable over Bersten in view of Cameron. Claims 3 and 4 have been cancelled, The newly added claims 21-37 incorporate allowable subject matter, thereby overcoming the 35 U.S.C. 103(a) rejection.

Additionally, the Examiner rejects claims 5-7, 14-16, 18 and 19 under 35 U.S.C. 103(a) as being unpatentable over Bersten in view of Robinson. Claims 5-7, 14-16, 18 and 19 have been cancelled. The newly added claims 21-37 adds subject matter from the specification which further describes the beverage brewing press, thereby overcoming the 35 U.S.C. 103(a) rejection. Since the newly added claims 21-37 have been amended to further describe the beverage brewing press, it is believed to be allowable over the prior art of record.

Furthermore, the Examiner rejects claim 20 under 35 U.S.C. 103(a) as being unpatentable over Bersten in view of Robinson as applied to claim 18, and further in view of Cameron. Claim 20 has been cancelled.

Lastly, since the newly added claims 21, 28 and 36 are believed to contain allowable subject matter, claims 22-27, 29-35, and 37 are believed to be allowable since they depend upon claims 21, 28 and 36 as amended.

In order to expedite the prosecution of this application, claims 1-20 have been canceled without prejudice or disclaimer of subject matter thereof. New

Ser. No.: 10/686,405

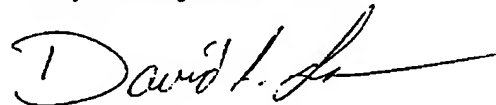
Docket No.: 20032055

claims 21-37 have been added to more definitely point out and distinctly claim the subject matter which applicant regards as the invention, and to overcome the 35 U.S.C. 102(b) and 35 U.S.C. 103(a) rejections. The rejections under 35 U.S.C. 103(a) as being unpatentable are respectfully traversed and a reconsideration thereof is earnestly solicited.

The Applicant requests that the Examiner reconsiders his rejections of the invention in view of the well established principle that small differences in a crowded art can constitute patentable improvement. See In re Baum, 51 USPQ 470 (CCPA 1941) and In re Lange, 126 USPQ 365 (CCPA 1960). In considering this principle, the Applicant would also request that the Examiner take note to the court decision which notes that "apparent simplicity has been held to furnish strong argument for patentability where, as here, a need has existed for a structure of the nature disclosed and claimed. The fact that a solution to a problem is simple, or appears to be simple when viewed in retrospect, does not mean that the solution was obvious when it was conceived." See Ellipse corp. v. Ford Motor Co., 171 USPQ 513.

With the above amendments being fully responsive to all outstanding rejections and formal requirements, it is respectfully submitted that the claims are now in condition for allowance, and a notice to that effect is earnestly solicited. Should the Examiner feel that there are further issues which might be resolved by means of telephone interview, the Examiner is cordially invited to telephone the undersigned at 727-345-1450.

Respectfully Submitted,



David A. Guerra, Reg. 46,443

Ser. No.: 10/686,405

Docket No.: 20032055

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

On (Date) 08/09/2005 by David A. Guerra



Ser. No.: 10/686,405

Docket No.: 20032055

AMENDMENTS TO THE DRAWINGS:

No changes to the drawings.